

DISTRICT PHILOSOPHY

Policy 103

BYLAW: Complaints and Appeals by Students, Parents and the Public

Notwithstanding genuine best efforts to communicate openly and seek collaboration in all aspects of school and district life, differences will exist and concerns and conflicts can be expected to arise from time to time.

This bylaw describes procedures that may be used by students, parents and members of the public to raise a concern, make a complaint or appeal a staff decision. Policy and procedures designed to hear concerns, complaints or appeals of staff decisions will be communicated annually to parents and students at each school and published on the District website.

The Board will only respond to anonymous complaints in exceptional circumstances and then only when it can establish first hand evidence that will permit due and fair process.

Concerns, complaints or disputes that arise concerning related to schools, personnel, staff decisions, programs or procedures will be processed as follows:

Step 1. Resolution Between the Parties

The Board believes issues are most effectively dealt with in a timely manner between the individuals involved.

Thus, in order to resolve a difference, a person should first contact or meet with the employee who made the decision in question or who is most closely connected with the issue of concern.

Issues should be dealt with in a fair and mutually respectful manner that is courteous and constructive and aims to both resolve the concern and maintain relationships.

A person may be supported by an advocate, support person or interpreter/translator throughout the resolution process and should notify all those involved, in advance, should s/he be so accompanied.

Step 2. School and District Mediation

When resolution cannot be achieved between the individuals or where one individual feels unable to safely approach the other, the principal or designate will, on request, facilitate resolution by participating in the discussion to mediate and advise both parties.

If, after genuine best efforts, the matter is still not resolved, or if the concern involves the principal directly, the Area Superintendent responsible for the school will participate in order to assist resolution.

Personnel against whom a complaint is made will be informed of the complaint when appropriate and have the opportunity to respond and to participate in attempts to resolve the concern.

The Superintendent of Schools will not normally engage in the resolution process until Step 4 or 5.

Step 3. Board of Education Determines Next Steps

If a concern remains unresolved after Step 2, an individual or group may apply to have their complaint considered by The Board of Education.

The complainant must complete a Notice of Complaint or Appeal and present it to the Secretary Treasurer within 15 school days of being informed of the final decision at Step 2. If the complaint involves the Secretary Treasurer as a supervisor, or his/her decision, another District staff member will be designated.

The Notice of Complaint or Appeal shall state:

- a) the name and address of the complainant(s);
- b) the concern or decision which is in dispute;
- c) the name, address, and school placement of the any student involved (including, where appropriate, grade level and homeroom teacher);
- d) the date on which the complainant was informed of the final decision at Step 2;
- e) the name of the Board employee(s) who made the final decision at Step 2;
- f) the grounds for the complaint or appeal and the action requested or relief sought;
- g) a statement, if applicable, of the effect the decision in dispute has on the student's education, health or safety;
- h) a summary of the steps taken by the student and/or parent complainant to resolve the matter;
- i) whether the complainant wishes to present their complaint in person.

An employee of the Board may assist complainants in completing the Notice of Complaint or Appeal if requested.

The Secretary Treasurer (or designate) will:

- 1) Review the Notice for timeliness and completeness.
- 2) Communicate with the complainant and others on matters related to the Notice as needed.
- 3) Provide copies of the Notice to the employee whose decision is being questioned and to other individuals involved in Step 2 as appropriate, and invite their written responses.
- 4) Receive and distribute relevant documents.
- 5) Ensure that other pertinent policies are considered and that complaints related to personnel are dealt with in accordance with the appropriate collective agreement or contract.
- 6) Prepare a report outlining the issue and the steps taken to resolve it for the Board's consideration, and distribute the report and supporting documents to the complainant, the Superintendent, and employees involved as appropriate.
- 7) Schedule necessary meetings.

The Board will normally consider the Secretary Treasurer's report at its next Board meeting and determine whether the matter should continue in the Complaint Procedure (Step 5) or if it meets the criteria necessary to be considered in the Appeal Procedure (Step 4). At the same meeting the Board will also determine the specific process to be used in either procedure.

At all times trustees hearing either a complaint or appeal will exercise independent judgment when deciding matters before them.

All participants will be informed that each is expected to behave respectfully and that retaliation in any form will not be tolerated.

Step 4 Appeal Procedure

If the Board of Education finds that the issue involves a decision (or failure to make a decision) of an employee of the Board that significantly affects the education, health or safety of a student, then the issue will be considered an appeal and dealt with under the terms of this Appeal Procedure. ~

Examples of grounds for appeal include, but are not limited to, those listed in the [Appeals Regulation 24/08](#); [Section 11 of the School Act](#) and summarized as follows:

- exclusion from school
- suspension from school or from a program if none other is provided
- requirement to complete a program by distributed learning if there is space in the school or district
- grade promotion or graduation
- placement in an educational program (but not a specific class or course)
- failure to provide or consult regarding a student's individual education plan under certain circumstances
- threats of violence, bullying or harassment between students
- any other decision the board determines should be considered as an appeal

If a student under the age of 19 years initiates the appeal, a copy of the appeal will be sent to his/her parents.

1. The Board will initiate the Appeal Procedure in a timely manner and decide the appeal within 45 days of first receipt of the Notice of Complaint or Appeal. The appellant and any employee whose decision is being appealed will be notified of all meetings.

2. The Board will consider the matter at one or more meetings based on written presentations and/or it may hear oral presentations. Such meetings will be conducted as In Camera meetings of the Board.

The Board may invite additional written submissions from the appellant and any of the other participants as necessary. It may establish a committee to investigate the matter further and may call any witness or follow any other line of inquiry it feels appropriate.

No officer of the Board who was involved in making the decision being appealed or has investigated or mediated the issue shall assist the Board with its deliberations on the appeal.

No trustee will decide on an appeal unless they have attended all meetings called to consider or hear the appeal.

3. Where the Board considers it desirable to receive oral submissions, the Board shall set a mutually convenient time, date and place for this purpose and shall invite the appellant and Superintendent to present their evidence.

If either the Board or appellant wishes to have legal representation or have an audio record of the hearing, they must notify the other party at least 7 days prior to the hearing date.

District reports and supporting documents must be provided to the appellant no later than 96 hours before the meeting date and all documents that the appellant intends to rely on must be provided to the office of the Secretary Treasurer no later than 48 hours before the hearing date.

The unwillingness of one party to attend or present at a hearing will not negate the right of other parties to attend or present.

In person appeal hearings will be held as outlined in this Bylaw.

4. Where the Board decides to consider written presentations only, all parties will be informed of the meeting date and asked to submit their documents with the same timeline as for an oral hearing. The Secretary Treasurer will assemble documents and assist the Board.

5. The Board may make any interim decision it considers necessary pending the disposition of the appeal.

6. The Board shall make a decision as soon as practicable after all the information is gathered and shall promptly notify the appellant and the staff involved of its decision.

As soon as possible thereafter the Board will approve a written communication to the appellant confirming the process followed, noting applicable policies and the evidence considered, and confirming its decision and the reasons for its decision.

Included in the communication to the appellant will be notification of the right to appeal to the Superintendent of Achievement under Section 11.1 of the School Act.

7. The Board may refuse to hear an appeal if the complainant has not followed the processes and time limits set out in Steps 1, 2 and 3 of this Bylaw.

8. If, after a Section 11.1 Appeal, the Superintendent of Achievement refers the matter back to the Board for reconsideration, with or without direction, the Board will begin the process of reconsideration at (2) of this Appeal Procedure.

HEARING PROCESS FOR AN APPEAL

The agenda for an appeal hearing will be conducted by the chairperson at an In Camera meeting and will be organized as follows:

Introductions

Confirmation of the purpose of the meeting and timelines
Confirmation that each party has all documents submitted
Presentation by the appellant
Presentation by the Superintendent
Recess: all but trustees leave and trustees formulate questions
Reconvene: the chairperson asks questions of the parties; parties answer
Recess/reconvene as needed to formulate additional questions

Response/Summation by Superintendent
Response/Summation by appellant
Participants are informed of the next steps, thanked and excused
Trustees deliberate as a committee of the whole

The Board votes to uphold, deny or alter the staff decision; Secretary Treasurer records the minutes.

Trustees in committee of the whole contribute to notes to be used to prepare a letter to the appellant.

Recess to another date. The chairperson notifies the appellant of the decision and prepares, with the Secretary Treasurer, a draft letter to the appellant.

Reconvene, vote on resolutions to accept or amend the letter to the appellant.

Adjourn

Each party invited to present their evidence at an a Complaint or Appeal Procedure hearing will be given up to 20 minutes to do so and up to an additional 10 minutes for summation.

Though it is expected that any recommendations and rationale will be arrived at by discussion leading to consensus, the resolutions must ultimately be decided by vote of the Board.

As soon as practicable the parties to the complaint will be notified in writing of the Board's decision regarding the complaint.

Step 5. Complaint Procedure

The Board will consider any issue that does not meet the criteria for an Appeal (see Step 4), as a complaint. An appeal must involve a student but a complaint need not.

A complaint may be considered:

- at a meeting of the full Board;
- by the Personnel and Finance Committee;
- by an ad hoc Complaint Committee of trustees;
- or the Board may establish any alternate method to resolve the matter that it considers appropriate.

If an ad hoc Complaint Committee is appointed it will convene within two weeks of its appointment. It will be composed of three trustees appointed by the Board Chairperson as voting members and be supported in its efforts by a district administrator and recording secretary. The first trustee appointed will chair the committee.

If a committee or alternate method is chosen to complete the complaint procedure, a report with recommendations will be presented by the committee for the Board's consideration and decision as to resolution of the issue. The Board will seek to resolve a complaint within 60 days of its submission. The parties will be notified in writing of the resolution and rationale as soon as possible thereafter.

Complaints addressed through the Step 5 Procedure are not subject to further appeal to the Superintendent of Achievement and the Board's decision is considered final. It is possible that in the process of hearing a complaint, it becomes evident that the matter should be considered through a Step 4 Appeal Procedure, in which case it will be referred back to the Board.

